

**REMARKS**

Claims 1-6, 8-11 and 14-52 are pending prior to amending the application.

The examiner objects to claim 37 for an informality.

The examiner rejects claim 50 under 35 U.S.C. § 112, ¶ 2, as being indefinite for failing to particularly point out and distinctly claim the subject matter that applicant regards as the invention.

The examiner rejects claims 1-2, 4-6, 14-21, 28-35 and 38-40 under 35 U.S.C. §103(a) as being unpatentable over Bellenger (U.S. Patent No. 6,263,016) in view of Biba (U.S. Patent No. 4,521,891) and Sinibaldi (U.S. Patent No. 5,771,232).

The examiner rejects claims 3 and 8-11 under 35 U.S.C. §103(a) as being unpatentable over Bellenger, Biba, and Sinibaldi in view of Green (U.S. Patent No. 5,949,762).

The examiner rejects claims 22-24 under 35 U.S.C. §103(a) as being unpatentable over Bellenger, Biba, and Sinibaldi in view of Osler (U.S. Patent No. 6,038,222).

The examiner rejects claims 25-27 under 35 U.S.C. §103(a) as being unpatentable over Bellenger and Biba.

The examiner rejects claims 36, 42-44 under 35 U.S.C. §103(a) as being unpatentable over Bellenger, Biba and Sinibaldi in view of Rezaiifar (U.S. Patent No. 6,408,003) and Haymond (U.S. Patent No. 4,987,571).

The examiner rejects claims 41 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,263,016 to Bellenger, Biba, Sinibaldi, and Rezaiifar

The examiner rejects claims 45 under 35 U.S.C. §103(a) as being unpatentable over Bellenger, Biba, Rezaiifar, and Haymond.

The examiner rejects claims 46-48 under 35 U.S.C. §103(a) as being unpatentable over Bellenger, Biba, Sinibaldi, Rezaiifar, Haymond, and Osler

The examiner rejects claims 49-52 under 35 U.S.C. §103(a) as being unpatentable over Biba, Rezaiifar, and Haymond.

Applicant amends claims 36, 38, 42, and 45, and cancels claim 25-27, 37, 43-44 and 49-52. Claims 1-6, 8-11, and 14-24, 28-36, 38-42, and 45-48 remain after amending the application. Applicant adds no new matter and requests reconsideration.

**Allowable Subject Matter and Claim Objections**

The examiner indicates claim 37 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, and overcome a claim objection. Applicant amends and rewrites claim 37 into independent claim 36 to place claim 36 in condition for allowance.

#### **Claim Rejections Under § 112 ¶ 2**

The examiner rejects claim 50 as being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicant regards as the invention. Applicant cancels claim 50 which obviates the examiner's objection.

#### **Claim Rejections Under § 103**

The examiner rejects claims 1-6, 8-11, 14-36, and 38-52 as obvious over Bellenger, variously in view of Biba, Sinibaldi, Rezaiifar, Haymond, Green, and Osler. Applicant respectfully traverses the examiner's rejections.

In the *Response to Arguments* section of the instant Office Action, the examiner appears to allege one or more of the Product and Apparatus claims in the present application have identical or substantially identical structure to one or more of the references, and therefore the claimed properties or functions are presumed to be inherent. Applicant disagrees that any of the cited references teach an identical or substantially identical structure to those disclosed in any of the claims, and respectfully request the examiner clarify which references the examiner is relying to inherently disclose the elements and accompanying limitations recited in the claims.

Claim 14 recites *a data-handling resource controller that directly monitors the first N of said N+1 data-handling resources to detect the failure or removal*. Claim 28, 38, and 48 recite similar limitations. The examiner alleges Bellenger's local control 404 discloses the recited data-handling resource controller, and Bellenger's primary DSP 414 and backup DSP 424 disclose the recited data-handling resources.

According to the examiner, the detection of idling sessions discloses the recited detection of the removal or failure of DSPs 414 and 424. The examiner further alleges the local control 404 monitors the sessions to detect this session idling. The DSPs 414 and 424, however, detect the idling of sessions, not the local control 404 as the examiner contends. See, Bellenger, Figures 12A and 13A, item 1210 B/P; col. 34, lines 31-33; col. 35, lines 12-13; col. 36, lines 36-41, where the DSPs 414 or 424 monitor their own sessions to perform the idle detection. Put differently,

Bellenger does not teach or suggest the local control 404 monitoring sessions, much less detecting the idling of the monitored sessions.

Even if Bellenger taught the local control 404 monitoring session traffic associated with the DSPs 414 and 424, the monitoring of session traffic is distinctly different than directly monitoring the DSPs 414 and 424 as the claims recite. Since the claims clearly eliminate the ability of Bellenger to indirectly monitor the DSPs 414 and 424 by monitoring session traffic, Bellenger does not anticipate claims 14, 28, and 38, or their corresponding dependent claims.

Claim 28 recites *periodically saving internal state information from an active data-handling resource in a location separate from said data-handling resource*.

The examiner alleges the DSP 414's dynamic update of a control table 524 in memory 522 discloses the periodically saving limitation. See Office Action, 11/29/2006, page 6; Bellenger, col. 16, lines 35-42. The control table 524, however, is located within the DSP 414. See, Bellenger, col. 16, lines 35-42. The dynamically updated control table 524, therefore, is not a *location separate from said data-handling resource* as the claim requires. See Bellenger, col. 16, lines 34-36; Figure 5.

Alternatively, the examiner argues DSPs 414 or 424 saving session parameter in memories 420 and 430 discloses the recited periodically saving limitation. See Office Action, 11/29/2006, page 5. Bellenger's session transfer method, however, discloses DSPs 414 or 424 only saving session parameters to memory 420 or 430 after rate negotiations occurring at the commencement of an active session, not periodically as the claims require. Bellenger, Figures 13A-B, particularly block 1346; col. 36, lines 31-33 and 60-64. Since Bellenger does not disclose periodic rate negotiations, much less periodically saving the recited internal state information, Bellenger does not anticipate claim 28, or its corresponding dependent claims. Additionally with regard to claim 32 depending from claim 28, Bellenger fails to teach or suggest varying the periodic saving responsive to the data connection load associated with multiple data-handling resources.

Claim 1 recites *a data-handling resource controller that responds to one or more conditions ... due to failure or removal of said first data-handling resource, by directing said data from said first data connection to said second data-handling resource without loss of said first data connection*. Claims 14, 19, 22, and 28 recite similar limitations.

The examiner remains steadfast that Bellenger teaches the recited limitations. The examiner alleges Bellenger's local control 404 discloses the recited data-handling resource controller, and Bellenger's primary DSP 414 and backup DSP 424 disclose the recited first and

second data-handling resources, respectively. The examiner argues the local control 404 transfers control over sessions from the backup DSP 424 to the primary DSP 414 when the sessions become idle due to the failure or removal of the backup DSP 424. For this session transfer to occur, however, Bellenger requires the backup DSP 424 to perform multiple tasks in response to an idle session, such as detecting the idle session and actively negotiating a rate reduction. See, Bellenger, Figures 12A, 12B, 13A, and 13B, specifically blocks 1208B-P, 1210B-P, and 1216A; col. 34, ll. 23-52; col. 36, ll. 40-52. Thus the idle condition triggering Bellenger's session transfer method, cannot be initiated by the failure or removal of the backup DSP 424, as Bellenger requires the failed or removed DSP 424 to perform a portion of the session transfer method. Since Bellenger's DSPs are required to perform multiple tasks in response to detecting an idle session, Bellenger does not anticipate claims 1, 14, 19, 22, and 28, or their corresponding dependent claims.

Claim 1 further recites the *first data-handling resource ceases to operate upon failure*. Claim 46 recites a similar limitation. The examiner alleges Bellenger's DSP 424 discloses the recited first data-handling resource. The examiner argues that the Bellenger's DSP 424 ceases to operate when a session controlled by the DSP 424 is "terminated." Office Action, 11/29/2006, page 3. The claim, however, requires that Bellenger's DSP 424 cease to operate *without loss of said first data connection*. Since Bellenger's session is lost upon session termination, Bellenger does not teach or suggest the recited claim limitations. Alternatively, the examiner argues that Bellenger's DSP 424 ceases to operate during a "cleardown and hold" operation. Bellenger's cleardown and hold operation, however, is rate reduction negotiation that is performed by the DSP 424 in response to detecting an idle session. See, Bellenger, Figures 12A, 12B, 13A, and 13B, specifically blocks 1208B-P, 1210B-P, and 1216A; col. 34, ll. 23-52; col. 36, ll. 40-52. Since the DSP 424 performs the cleardown and hold operation responsive to the idling of the session, Bellenger does not teach or suggest the DSP 424 *ceasing to operation upon failure*. Bellenger therefore does not anticipate claim 1 or its corresponding dependent claims.

With regard to claim 22, the examiner further alleges Osler's idle state discloses the recited *failure or removal of any one of said modem resources*. The idle state, however, is attained by termination or failure of the *link* in a fully operational modem 12, not the failure or removal of the *modem* 12 as the claim requires. Osler, col. 3, lines 15-18. Furthermore Osler's link failure or link termination necessarily terminates the connection, thus requiring complete reconnection from an idle state. Osler, Figure 2; col. 4, lines 8-15; col. 3, lines 21-

22. Since Osler does not disclose the *failure or removal* of a *modem resource*, Osler does not anticipate claim 22 and its corresponding dependent claims.


Applicant amends claims 42 and 45 to recite a similar limitation that the examiner indicated as allowable with regard to claim 37. Amended claim 45 recites *the data in a frame included in the resource internal state memory includes data associated with a large on-line stock order*. The examiner does not allege, nor is there any disclosure in the prior art references of record of the recited *frames including data associated with a large on-line stock order*. Applicant, therefore, requests the rejections be withdrawn and the claims be allowed to issue.

### CONCLUSION

For the foregoing reasons, reconsideration and allowance all claims after amending the application is solicited. The examiner is encouraged to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,

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